

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

LAVERN BERRYHILL,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-11-1513-W
)	
JUSTIN JONES,)	
)	
Respondent.)	

Report and Recommendation:
The Petitioner's Summary Judgment Motion (Doc. 26)

The undersigned has recommended that the Court grant dismissal or summary judgment to the Respondent on each of the Petitioner's claims in the original and supplemental petitions. However, the Petitioner has also moved for summary judgment. Doc. 26. The recommended ruling would terminate each of Mr. Berryhill's habeas claims and, in turn, would moot his summary judgment motion. As a result, the Court should dismiss Mr. Berryhill's summary judgment motion on grounds of mootness.¹

The Petitioner is advised of his right to object to this report and recommendation by August 13, 2012.² If the Petitioner does object, he must file a written objection with the

¹ See *Hutchinson v. Pfeil*, 211 F.3d 1278, 2000 WL 345688, Westlaw op. at 1 (10th Cir. Apr. 4, 2000) (unpublished op.) (affirming the district court's grant of summary judgment for the defendant and deeming the plaintiff's cross-motion for summary judgment moot); see also *Overton v. United States*, 2002 WL 741641, Westlaw op. at 2 (W.D. Okla. Mar. 19, 2002) (unpublished op.) (denying the plaintiff's motion for summary judgment in light of the dismissal of his allegations for failure to state a valid claim), *aff'd*, 44 Fed. Appx. 932 (10th Cir. Aug. 22, 2002) (unpublished op.).

² See 28 U.S.C. 636(b)(1) (2006); Fed. R. Civ. P. 6(a)(1)(C), 6(d), 72(b)(2).

Court Clerk for the United States District Court, Western District of Oklahoma.³ The Petitioner is further advised that if he does not timely object, he would waive his right to appellate review over the suggested ruling.⁴

The referral is not discharged.

Entered this 26th day of July, 2012.



Robert E. Bacharach
United States Magistrate Judge

³ See *Haney v. Addison*, 175 F.3d 1217, 1220 n.3 (10th Cir. 1999) (recommending inclusion in the body of a magistrate judge's report a notice that timely objections should be filed with the clerk of the district court).

⁴ See *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).